



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

AUG 10 2010

201044037

U.I.L. 408.03-00

SE: T: EP: RA: T4

XXXXX  
XXXXX  
XXXXX

Legend:

Taxpayer A = xxxxx

IRA X = xxxxx

IRA V = xxxxx

Financial Institution C = xxxxx

Financial Institution D = xxxxx

Amount N = xxxxx

Year 1 = xxxxx

Date 1 = xxxxx

Date 2 = xxxxx

Dear xxxxx:

This is in response to your submission dated December 17, 2009, in which you request a letter ruling waiving the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations are made under penalties of perjury in support of your ruling request.

Taxpayer A, age 75, represents that on Date 1, Amount N was distributed from IRA X, an Individual Retirement Arrangement (IRA) he maintained at Financial

Institution D. Taxpayer A asserts that he intended to roll over Amount N into another IRA and that his failure to accomplish a rollover of Amount N within the 60-day period prescribed by section 408(d)(3) of the Code was due to the worsening of a degenerative medical condition which affected his mobility and limited his ability to manage his financial affairs. Taxpayer A further asserts that Amount N has not been used for any purpose.

Taxpayer A represents that on Date 1, he liquidated IRA X, a Certificate of Deposit, maintained at Financial Institution D with the intention of rolling over its maturity value of Amount N into IRA V which he maintained at Financial Institution C. Taxpayer A represents that, during the 60-day rollover period following Date 1, he was bed-ridden on account of his degenerative medical condition.

Taxpayer A has provided a letter from his treating physician stating that Taxpayer A was confined to a bed or chair during most of a four-month period which included the 60-day rollover period.

Taxpayer A represents that, upon improvement of his condition, he attempted to roll over Amount N into IRA V, but was informed that the 60-day rollover period had passed.

Based on the facts and representations presented in this letter, you request that the Service waive the 60-day rollover requirement with respect to the distribution of Amount N from IRA X.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if--

- (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which the individual receives the payment or distribution; or
- (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60<sup>th</sup> day

after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(d)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359, provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including : (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error, (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that he intended to transfer Amount N into IRA V during the 60-day period following Date 1 and that his medical condition prevented him from doing so.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount N from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount N into an IRA.

Provided all other requirements of section 408(d)(3) of the Code except the 60-day requirement are met with respect to such contribution, Amount N will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed to Taxpayer A by section 401(a)(9) of the Code.

This ruling assumes that IRA X satisfies the qualification requirements of section 408 of the Code at all times relevant to this transaction.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact xxxxx, I.D. # xxxxx, by telephone at 202-283-xxxxx. Please address all correspondence to SE:T:EP:RA:T4.

Sincerely yours,



Laura B. Warshawsky, Manager  
Employee Plans Technical Group 4

Enclosures:

Copy of deleted ruling letter  
Notice of Intention to Disclose